

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

GREGORY A. FIGEL,

Plaintiff,

v.

Case No. 2:03-cv-216  
HON. R. ALLAN EDGAR

WILLIAM OVERTON, Director, MDOC;  
DAVID BURNETT, Special Activities  
Coordinator, MDOC; PATRICIA CARUSO,  
Director, MDOC,

Defendants.

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**MEMORANDUM AND ORDER APPROVING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge. [Court Doc. No. 30]. The Report and Recommendation was served on the parties. The Court has received objections from plaintiff and defendants. [Court Doc. Nos. 31, 33]. In accordance with 28 U.S.C. § 636(b)(1), the Court has reviewed the record *de novo* concerning those portions of the Report and Recommendation to which objection has been made. The Court finds the objections to be without merit.

Plaintiff objects that his claim for injunctive and declaratory relief should not be dismissed. The Philadelphia Church of God is now on the approved vendors list at Alger Maximum Correctional Facility. Accordingly, the plaintiff's demand for injunctive and declaratory relief is moot.

Defendants argue that the alleged improper act was taken by former Warden Bouchard who is not a party to this lawsuit. Defendants contend that they were not personally involved in the alleged improper conduct and there exists no evidence to establish that the defendants committed any illegal act. Plaintiff has set forth allegations and presented evidence that defendants were involved in the asserted denials of his religious publications. There are genuine issues of material fact in dispute.

Accordingly, the Court **ACCEPTS and ADOPTS** the Report and Recommendation of the Magistrate Judge [Court Doc. No. 30] pursuant to 28 U.S.C. § 636(b). The parties' objections [Court Doc. Nos. 31, 33] are **DENIED**. The Court will enter a separate partial summary judgment in favor of the defendants under Fed. R. Civ. P. 56.

SO ORDERED.

Dated: *March 9, 2006*

/s/ R. Allan Edgar  
R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE